

April 26, 2011
United States District Court, Eastern District of New York

225 Cadman Plaza East

Brooklyn, New York 11201

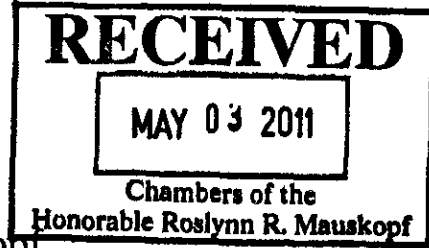
Attn: District Court Judge Roslynn R. Mauskopf

Re: Index #11 CV 0752

Sol Rosen, Plaintiff

V. North Shore Towers Apartments Inc. Defendant

Honorable Judge Roslynn R. Mauskopf



FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
★ MAY 04 2011 ★

BROOKLYN OFFICE

Enclosed is a copy of Plaintiffs sworn affidavit dated October 20, 2010

To the Supreme Court of the State of New York, Appellate Term,

Second Judicial Department that provides this Court with the

background of the Housing Court Order of July 19, 2010 and amended

January 31, 2011 that was vacated by the Hon. Judge Duane A. Hart on

July 30, 2010. Errol Brett, attorney for the Defense withdrew his

opposition to the order of Judge Hart on September 15, 2011 and

simultaneously reentered the order on the same date

The reentered order became the basis on January 7, 2011 for

Hon. Judge Alan B. Weiss granting the Housing Court order of 4 months

back rent with no attorneys' fees and dismissing shareholders claims of

\$35 million. On January 18, 2011, the Defense entered the Housing

Court eviction notice 57301/10(Exhibit 61),for which there was no judgment. The notice is fraudulent..In desperation, the defense attorney obtained a summary judgment from the Housing Court dated January 31,2011 ,without a trial ,and a fraudulent order of eviction dated January 18 ,2011,.The Housing Court notice of eviction is invalid,As a matter of law, any summary judgment ,without a trial, when there are triable issues of fact is invalid..The eviction was fraudulently obtained and the apartment must be returned to the Plaintiff with damages for wrong ful eviction, as a matter of law.

A reading of the transcript of the hearing for a preliminary injunction does not provide the Court with the above details ,before denying the request....Plaintiff again requests \$35 ,000 to retain Price Waterhouse to review Plaintiffs Schedule 1F,Exhibit 2 Tables A and B. It will assure the Court that the dismissal of Plaintiffs claims will not result in the \$35 million embezzlement ,increasing at the rate of \$1 milion monthly.The victims are 3000 senior citizen shareholders Table A

Greenthal Cash Surplus ,as at Dec.31,2011 less than \$1million for 5 years(At Budget meeting December 2010)

Plaintiff projected Cash surplus as at December 31 ,2011 \$32 million

The cash surplus increased when you add omissions in Schedule 1 F. Plaintiff should not require Price Waterhouse to verify the outrageous discrepancy, but accepts the Courts direction ,if necessary.

None of the glaring accenting discrepancies and legal questions were before the Court on February 17 ,2011 .Should the Plaintiff be denied the opportunity to present his case in a trial, the fraud will continue increasing at the rate of \$1million monthly, for other plaintiffs to move another Court. The granting of time to answer the Defense motion to dismiss is insufficient evidence that the Court has protected the victims of the alleged fraud?.Granting the\$35,000 award would be helpful.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Sol Rosen", written in a cursive style.

Sol Rosen

Cell phone 1-516-241-4307

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE TERM SECOND DEPARTMENT

SOL ROSEN and FLORENCE ROSEN
Claimants// Plaintiffs /Petitioners

ORDER TO SHOW CAUSE

-against-

NORTH SHORE TOWERS APARTMENTS INC.
Defendant

Queens County, Lower Court Index No. 19503/10

RECEIVED
APPELLATE TERM
CLERK'S OFFICE
10 OCT 25 PM 3:56

Upon the annexed affidavit of Sol Rosen dated October 20, 2010 and the papers annexed thereto.

LET North Shore Towers Apartments Inc. **SHOW CAUSE BEFORE THE COURT** at the courthouse thereof located at 141 Livingston St. 15th floor Brooklyn, N.Y 11201 on the 26th day of October 2010 at 10:00o clock in the forenoon of that date why an order should not be made nor entered

1. To uphold the order dated July 30, 2010 by the Honorable Judge Duane A. Hart, who had vacated the Housing Part Judgment/, Order by the Honorable Judge Anne Katz,
2. To award Plaintiff Summary Judgment with sufficient funds to retain counsel for a shareholders derivative action and to retain forensic accountants to find the allegedly missing cash and wrongdoers

And granting such other and further relief the Court may deem just and equitable

SUFFICIENT CAUSE THEREFORE APPEARING, it is

ORDERED that service of a copy of this order to show cause upon which it was made upon Errol Brett Esq., Attorney for North Shore Torres Apartments Inc by first class mail with certificate of mailing at the Post Office

Dated October 20, 2010

BACKGROUND

Plaintiff is the owner of 6,116 shares of 597,544,111 outstanding in North Shore Apartments Inc The cooperative has 1884 units ,with approximately 3500 residents of which approximately 3000 are senior citizens.

Sol Rosen, Plaintiff swears under penalty of perjury as to the following allegations

- 1.that in February 2009, Plaintiff discovered that the corporation was engaged in budget fraud and accounting malpractice that resulted in massive fraudulent assessments to its shareholders..In an attempt to resolve the matter internally, Plaintiff wrote hundreds of letterss to corporate officials and public officials ,with no responses ,except threats of lawsuits for libel ,slander and harassment Exhibit 5 Exhibit 6 ,Exhibit 7
- 2.When the 2010 budget was presented, weith no change in budget fraud. Exhibits 2,,2a. Plaintiff confronted Errol Brett Esq., the corporation attorney with a demand that Plaintiff meet directly with corporate officials or Plaintiff would withhold future maintenance payments in protest of the fraudulent assessments In response Mr. Brett threatened a lawsuit for Plaintiffs frivolous lawsuit
- 3..On March 12 ,2010 .Mr.Brett initiated a lawsuit for three months back rent \$13 ,759.25 plus \$5000 attorneys fee.,total\$18,759.25 in the Civil Court ,Housing Part Queens County, Index No.57503/10.
- 4.Plaintiff entered a counterclaim of \$35,000.based on the then \$35 million of total shareholders fraudulent assessments of 36 months of approximately \$1000 per month beginning January 1.2007.In gross professional misconduct Mr. Brett called members of Plaintiffs family “as a courtesy, threatening to evict your parents”,. Included was a call to my son,,a physician,, on his private emergency private cell phone ,threatening eviction

5. **By deception**, eliminated Plaintiffs right to an unopposed right to reply to the corporation claims. No evidence of the massive fraud was made part of the record.

The Court clerk refused to enter Plaintiffs motion to strike corporation claims. Exhibit 40

6. There were no elements of a fair trial. No interrogatories, no depositions, no admissions, no discovery period. No record of any evidence of fraud could be utilized in Appeal

.Mr. Brett presented the sworn affidavit of Robert Serikstad CPA, Corporate Controller an employee of Charles H. Greenthal Management Company, describing his proprietary accounting system "the recapture of assessments from shareholder, which is the basis of the massive accounting fraud" Exhibit 18. Mr. Serikstad **swore falsely** No. 29 "Further this practice is widely accepted and utilized within the City of New York". There are no other cooperatives that utilize the recapture of Abatements **.None.**

"The Abatements are always credited back to shareholders and the Board of Directors if it wants to recapture some of these credits the form of Capital assessments"

No abatement credits are credited back **but credited solely at the discretion of the Board.**

Charles H. Greenthal Management Co. at another managed property on West 72 St.

with different accountants, auditors and an accounting method that does not violate accounting principles earned 95% less. In 2009 North Sore Towers earned presumably \$6,097,595... (actually approximately \$4.8 million more omitted). Exhibit 11b

In 2008 West 72 St earned \$316,372 Exhibit 11a

Not only is **the accounting method never used**, but it was not used by the same company at another location. Exhibit 9 and Exhibit 11 The defenses underlined

7. The Honorable Judge Anne Katz expressed concern that the evidence of the mass fraud was not part of the record. She **reserved decision for ten weeks**, presumably to give

Plaintiff time to retain counsel and move the case to the New York State Supreme Court for a shareholders derivative action of \$44million action. The delay was into helpful because all interviewed attorneys requested retainers \$60,000 to \$100,000.

The Honorable Judge Anne Katz in the Decision and Order dated July 19,2010 noted "Respondents now move for summary judgment alleging petitioner violated accounting principles that amounted to malpractice as well as engaged in budget fraud that effected the validity of the maintenance fees assessed. Based on this allegation, respondents have stopped making maintenance payments" Further the Honorable Judge Anne Katz noted Exhibit 38"Respondents grounds for summary judgment essentially questions the petitioners fiduciary duties to the shareholders and their business practices. Pursuantt to the section 110of the New York City Civil Court Act, the Housing Part is not vested with powers to hear the claims posed by the respondents, Consequently,the Court lacks the jurisdiction to entertain the defenses raised by respondents that involve fiduciary duties owed to the shareholders and the corporations business practices." The Housing Court Judgment Order dated July 19,20010 in the amount oif \$18,758.25 with an order to vacate our apartment with a five day stay was received on July 26 2010 regular mail

8.In order to have standing as shareholder to appeal the Housing Court Judgment /Order ,the Plaintiff purchased a Supreme Court State of New York Index No.19301/10

9..On July 28,2010, Plaintiff filed the Appeal with the mistaken belief that the allegation of massive fraud would be sufficient evidence to warrant the acceptance by the Appellate Term. However, with no record of a trial, a transcript or the evidence of fraud the Appellate Term refused the Appeal. This Pro Se advocate ignorant of preparing a record for Appeal with only two lines for the Court to consider was further victimized

by Mr. Brett who now had license to evict ,which was the sole purpose of the lawsuit.

The Plaintiff is the sole advocate opposing the massive budget and accounting fraud could be silenced by vacating the apartment and selling Plaintiff shares at auction....

The Plaintiff believes that the Housing Court order without the massive fraud is as invalid as the description of the cruise of the Titanic without the iceberg

10..On July 29, 2010,,prepared an Emergency application with copies of the summons and Complaint for the Honorable Judge Duane A. Hart to consider on July 30,2010

Plaintiff made two telephone calls to Errol Brett Esq. offering him an adjourned date to oppose Plaintiffs application to vacate the Housing Court /Judgment /order

Mr.Brret returned the calls about 6 P.M. ***Mr. Brett stated that he had no interest in appearing ,and that he was proceeding with the eviction with the City Marshall.***

On July 30 ,2010 the Honorable Judge Duane A. Hart vacated the Hooding Court Judgment order and. left the bench and called Mr. Brett from chambers and advised him there was to be no eviction proceedings

On August 3, 2010 Mr. Brett prepared an Emergency affirmation to be presented to the Honorable Judge Duane A. Hart on August 4,2010..The proceedings were transferred to the Honorable Judge Alan B.Weiss .The Affirmation stated ***under penalty of perjury***

EXHIBIT 36 ,No.8 “Furthermore ,***your affiant never received a phone call***

from the Plaintiffs advising them of their application since they were reasonably certain I would appear and argue and hopefully their application would have been denied upon my argument and documentation to be submitted to the Honorable Court””

On August 13,2010, after Mr. Brett learned that there was a witness to the two telephone cakks on July 29 ,2010 filed a Supplemental Affirmation ,***under penalties of perjury***

Exhibit 37 No7 *I did receive two voice mail messages from the Plaintiffs*

on July 29,2010but I though they were in reference to the order to show cause that was filed on July 28,2010by the Plaintiffs in the Appellate Term”

Exhibit 37.NO .8 ,with *fictitious* Defendants Exhibit C .”When I received the voice mail messages from the Plaintiffs I thought he was referring to that proceeding. Attached

hereto as Exhibit C is a a transcript of the voice mail messages that the Plaintiff

Sol Rosen left me which does not give me any notice that there was a Supreme Court pending but rather as anybody would assume it was in reference to the Appellate Court Proceeding,Areasing of the transcript indicating that the Plaintiff deliberately withheld from your affiant the fact that the application was refused and ge was now applying for some relief from the Supreme Court. ***ALL FICTION AND PERJURY***

Exhibit 39 Supreme Court of the State of New York ,Appellate Division

, Second JudicialDeptartment. Grievance Committee Form, Dated Sept.15,2010

with all of the above alleged complaints of fraud ,perjury deception.

On September 21,2010 returnable October 12,2010 Plaintiff filed a Notice of Motion to join as Defendants Errol Bret Esq. the compote attorney as the key figure in the cover up of the massive fraud. Also joined as Defendant is Robert Serikstad CPA corporate controller, the author of the fraudulent “recapture of abatements from shareholders “ the fraudulent accounting and budge t fraud basis for \$44million of fraudulent assessments

On September 7,2010 Plaintiff filed affidavit to Plaintiffs reply to Defendants

Memorandum of law, Notice of Cross Motion and the disqualification of Errol Brett Esq.

And the Plaintiffs affidavit in opposition to Redundant order to show cause to vacate the

order of the Honorable Judge Duane A.Hart ,who had vacated the Housing Court order Exhibit 4 filed Sept. 7,2010 records ***the shareholders claims of \$44 million of fraudulent assessments the largest in the history of New York cooperative apartments***

Table B projects “cash missing” from Certified reports Dec31,2010 as \$31,135,604

See Schedule 1F ,2 and 2 a and Ttables in Exhibit 4

The corporate officials, accccountants,auditos failed to act in good faith for a purpose which hey believe is in the best interests of the shareholders The massive fraud

disqualifies all Defendants from the utilization of the Poor Business Judgment Rule Exhibit 10. Errol Brett affidavit on the Good Faith Rule

The defense that the Plaintiff is barred by the Statute of Limitations is absurd with an ongoing fraud. Exhibits 9 and Exhibit 11

.On Sept.15,2010 Errol Brett ***withdrew his Emergency affirmation dated August 3,2010***

,in which stated he had not received two telephone calls from Plaintiffs. This was a transparent deception to cure the indisputable contradiction between his two Affirmations

The Court reminded Errol; Brett that. ***the order of the Honorable Judge DuaneA.Hart to vacate the Housing Court Judgment is unopposed*** .Errol Brett responded that he was

preparing a motion for summary judgment, which by some irrational theory would eliminate the \$44million fraudulent assessments and \$31135,504nin “cash missing”.

The Court asked if the Plaintiff believed there was embezzlement.

The answer with an unaccounted cash hoard of \$31,135,504 ***is embezzlement.***

Since March 12 ,2010 ,the date of the Housing Court lawsuit approximately \$7 million has disappeared. ..The deception of Errol; Brett has rewarded Defendants with huge unaccounted cash The fraud will only end with a trial. It may be too late for restitution... The Honorable Judge Duane A. Hart has the discretion and obligation to vacate the Housing Court Judgment with the overwhelming evidence of fraud in the Complaint. The Housing order without credits for \$44million of fraudulent assessments is invalid Three Courthouses of the New York State Supreme Court have been wrestling with the disqualification of Errol Brett Esq.. How many Judges are required to end his duplicity/?

CONCLUSION

The unanswered question remains "why would two licensed professional risk their licenses and worse by a failed effort to dismiss allegations of budget fraud and accounting malpractice to silence the sole advocate of the fraud.?

Why were they unable to satisfy the Honorable Judge Anne Katz who qualified her decision , that the issues of fraud only remain because the Court lacks jurisdiction The Defendant attorney promised a motion for summary judgment, when after eight months of Court time, he has failed to dismiss the allegation of \$44million of fraudulent assessments, and \$31,135,604 is still missing. With a one moth adjournment another million dollars may disappear. The cost of further delay is unconscionable.

The defenses of Poor Business Judgment Rule and Statute of Limitations have no merit

Wherefore it is requested that

1. the Housing Court Judgment//order is deemed invalid
2. Plaintiff be awarded sufficient funds to retain counsel for a shareholders derivative action and to retain forensic accountants to find the missing money and wrongdoers.

For such other and further relief that the Court deems just and equitable.

Dated :October 20,2010

By Plaintiff

Sol Rosen

Sol Rosen

26910 Grand Central Parkway Apt.11W

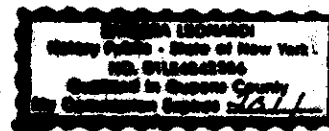
Floral Park,NY 11005-1011

(718) 279-4217

To: Law Offices of Errol Brett ,Esq.
26910 Grand Central Parkway
Floral Park, NY11005-1011
(7128) 631-7733

Sworn to by:

Barbara Liorach



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

SOL ROSEN and FLORENCE ROSEN^X
(Fill in name(s)) Plaintiff(s)/Petitioner(s) Index Number 19503, 10
- against -
NORTH STORE APARTMENTS INC
(Fill in name(s)) Defendant(s)/Respondant(s) Affidavit of Service

STATE OF NEW YORK
COUNTY OF NASSAU SS:
I, MARK ROSEN^X being duly sworn says: (NAME OF PERSON
WHO SERVES PAPERS) I am not a party to the action, am over 18 years of age And reside
at 22 Elliot Rd. Great Neck, NY 11041 (ADDRESS
OF PERSON SERVING PAPERS). On October 21 2010 (DATE OF SERVICE), I served a true copy
of the following papers, ORDER TO SHOW CAUSE (IDENTIFY THE PAPERS
SERVED) which are attached to this affidavit, in the following manner: [CHECK ONE]

By personally delivering the papers to: _____ [PERSON
SERVED] at [ADDRESS] _____

PERSONAL The individual I served had the following characteristics: [FILL IN]

SERVICE _____ Male _____ Female _____ Skin Color _____ Hair Color

_____ 21-34 yrs. _____ 35-50 yrs. _____ 51-61 yrs. _____ Over 61

_____ 120-150 lbs. _____ 151-181 lbs. _____ Over 182 lbs.

Approximate height _____

Other distinguishing features _____

✓

By mailing the same in a sealed envelope, with postage prepaid
MAIL thereon, in a post-office or official depository of the U.S. Postal Service within the
State of New York, addressed to the last-known address of the addressee(s) as
indicated below:

By depositing the same with an overnight delivery service in a wrapper properly
OVERNIGHT addressed. Said delivery was made prior to the latest time designated by the
DELIVERY overnight delivery service for overnight delivery.

SERVICE The delivery service used was _____ The
name(s) and address(es) of person(s) served are indicated below:

Name(s) and address(es) of Person(s) served:

ERROL BRETT ESQ 26910 Grand Central Parkway
Floral Park N.Y. 11001

Mark J. Rosen
[SIGN NAME] Before a Notary

Elene H. Rosen

MARK ROSEN
[PRINT NAME]

Sworn to before me this
21 day of Oct., 2010

Notary Public

ELENE H. ROSEN
Notary Public, State of New York
No. 02RO4701301
Qualified in Nassau County
Commission Expires Oct. 31, 2013

TABLES A and B

TABLE A detailing (e) (f) (g)

	Budget Greenhalp surpluses (Before the year)	Surpluses Certified PKF end of year	Projected surpluses, Schedule 1F Averaged annually, with omissions added back
2007	not available	\$5,368,557	\$11,000,000,
2008	\$480,000	\$4,419,686	\$11,000,000
2009	Zero	\$6,097,595	\$11,000,000
2010	\$365,000	\$8,686,795 projected	\$11,000,000
Total	845,000	\$24,572,663	\$44,000,000

Unanswered, after his reading of the Complaint is the correct amount of the Abatements

for the years 2007, 2008, 2009 after correcting 2010 to \$2,568,000 from \$1,793,000

The detailed allegations of fraud are documented in the controllers Certified reports and
Exhibit 1F and tables below

TABLE B

	Cash Reserves Certified PKF	2006 Cash Reserve Plus Surplus, plus average omissions	Missing Cash cumulative
2007	11,227,613	18,131,348	6,903,735
2008	13,273,480	27,151,034	13,877,554
2009	16,683,669	37,848,629	21,164,960
2010	20,000,000 Proj.	51,135,604 Projected	31,135,604 Projected
Total	20,000,000*	51,135,604 cumulative	31,135,604 cumulative

11,478,865

51,271,161

33,792,296

2011 Budget Fraud, Dec. 17, 2010

Exhibit JI

The December 17, 2010 fraudulent 2011 budget presentation meeting Exhibit 51

Provides innumerable triable issues of budget fraud and accounting malpractice

1. with no disclosure to shareholders of the current case of a \$44 million fraud allegation
2. continuing the monthly \$1 million increase in missing cash and fraudulent assessments
3. elimination of schedules 2 and 2a in presentation to conceal fraudulent assessments
4. projected 2010 cash surplus \$998,000. Plaintiff projects \$12 million cash surplus
5. projected 2011 year end cash and reserves \$13.8 million Plaintiff projects \$63 million
6. projected 2011, no cash surplus, balanced budget Plaintiff projects \$12 million surplus